

REMARKS

I. Formal Matters.

Claims 19-35 were withdrawn in a Response to Restriction Requirement, filed October 13, 2004. Withdrawal of these claims is acknowledged in the Office Action dated December 22, 2004. Subsequent to entry of the foregoing amendments, claims 1-8, 10-13, and 15-18 are currently pending in this application. Claims 9 and 14 are hereby cancelled.

As an initial matter, Applicant thanks the Examiner for acknowledging the claim to priority under 35 U.S.C. §119 and for confirming receipt of a certified copy of Applicant's foreign priority document. In addition, Applicant appreciates the Examiner's consideration of the references cited via the Information Disclosure Statement (IDS) filed on November 25, 2003, as evidenced by his return of an initialled Form PTO/SB/08 A&B to the office of the undersigned. Applicant awaits the Examiner's consideration of the IDS filed on February 10, 2005. Applicant thanks the Examiner for indicating that formal drawings, filed November 25, 2003 are acceptable. And finally, Applicant thanks the Examiner for indicating acceptable status of the oath/declaration filed November 25, 2003.

II. Claims.

Objection to claim 1. The Examiner objects to claim 1 as requiring elements differing from that described in the specification and shown in the drawings (OA page 3). Applicant respectfully asserts that the drawing and specification are consistent with the requirements of

claim 1 (Fig. 4; page 11 line 2- line 9; page 11 line 30- page 12; Figs. 5A and 5B). One of ordinary skill in the art would readily recognize that the first cap layer corresponds to layer 11 under source electrode 14S and the second cap layer corresponds to layer 11 under drain electrode 14D (Page 4 lines 7-19; Figs. 1 and 4; page 7 lines 1-10; abstract). The first and second cap layer are both formed by layer 11 (Fig. 4). However, Applicant has amended claim 1 to require “a cap layer”. This amendment is made without prejudice and is not intended to limit the scope of claim 1.

Allowable Subject Matter of claims 13 and 16-18. The Examiner indicates that claims 13 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims

Rejection of Claims 1-12, 14 and 15. The Examiner rejects claims 1, 2, 4 and 10 as allegedly being anticipated by *Bito, et al.* (U.S. Patent Publication No. 2001/005,016) (“*Bito*”) under 35 U.S.C. §102(b). The Examiner rejects claims 1, 3, 5-9, 11, 12, 14 and 15 as allegedly being anticipated by *Kato, et al.* (U.S. Patent Publication No. 2001,019,131) (“*Kato*”) under 35 U.S.C. §102(b). Applicant respectfully traverses these rejections in view of the following remarks.

Claim 1. Neither *Bito* nor *Kato* disclose the element of “a third semiconductor layer made of GaAs/AlGaAs interposed between said first semiconductor layer and said cap layer and having a second recess”. (OA page 5; *Bito* [0074]-[0076]; *Kato* [0027]).

In contrast, claim 1 is amended, incorporating features of claim 16's allowable subject matter, and herein requires, "... a third semiconductor layer made of GaAs/AlGaAs interposed between said first semiconductor layer and said cap layer and having a second recess ..." At least for failing to disclose the element of "a third semiconductor layer made of GaAs/AlGaAs interposed between said first semiconductor layer and said cap layer and having a second recess" the alleged anticipation of claim 1 by *Bito* under 35 U.S.C. §102(b) should be withdrawn. And similarly at least for failing to disclose the element of "a third semiconductor layer made of GaAs/AlGaAs interposed between said first semiconductor layer and said cap layer and having a second recess", the alleged anticipation of claim 1 by *Kato* under 35 U.S.C. §102(b) should be withdrawn.

At least for depending from an allowable independent claim, the alleged anticipation of dependent claims 2, 4, and 10 by *Bito* under 35 U.S.C. §102(b) should be withdrawn.

At least for depending from an allowable independent claim, the alleged anticipation of dependent claims 3, 5-9, 11, 12, and 15 by *Kato* under 35 U.S.C. §102(b) should be withdrawn.

And finally, dependent claims 13 and 16-18, containing allowable subject matter are asserted as being in condition for allowance at least for depending from an allowable independent claim.

In view of the preceding amendments and remarks, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephonic

AMENDMENT UNDER 37 C.F.R. §1.111
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ART UNIT 2826
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interview, he is kindly requested to contact the undersigned at the local telephone number listed below.

A Petition for Extension of Time of two (2) months and appropriate fee accompany this document. The USPTO is directed and authorized to charge all additional required fees (except the Issue/Publication Fees) to our Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

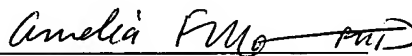
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